

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

05-27-05

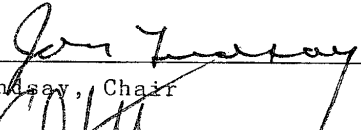
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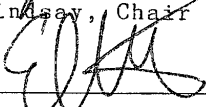
Honorable David Dewhurst  
President of the Senate


Honorable Tom Craddick  
Speaker of the House of Representatives

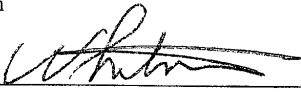
Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on House Bill 2525 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.


  
Lindsay, Chair

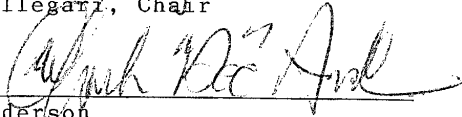
  
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Jackson

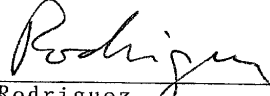
  
Whitmire

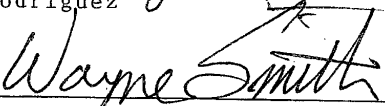
On the part of the Senate  
West

  
Callegari, Chair

  
Anderson

Frost

  
Rodriguez

  
On the part of the House  
Smith, Wayne

## Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

H.B. No. 2525

A BILL TO BE ENTITLED

AN ACT

relating to contracts by governmental entities for construction projects and related professional services and to public works performance and payment bonds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2253.021, Government Code, is amended by adding Subsection (h) to read as follows:

(h) A reverse auction procedure may not be used to obtain services related to a public work contract for which a bond is required under this section. In this subsection, "reverse auction procedure" has the meaning assigned by Section 2155.062 or a procedure similar to that assigned by Section 2155.062.

SECTION 2. Section 2166.2525, Government Code, is amended to read as follows:

Sec. 2166.2525. DETERMINATION OF CONTRACTING METHOD. The ~~[commission shall adopt rules that determine the circumstances for use of each]~~ method of contracting allowed under this subchapter for design and construction services is any method provided by Chapter 2264. ~~[In developing the rules, the commission shall solicit advice and comment from design and construction professionals regarding the criteria the commission will use in determining which contracting method is best suited for a project.]~~

SECTION 3. Subtitle F, Title 10, Government Code, is amended by adding Chapter 2264 to read as follows:

CHAPTER 2264. CONTRACTING AND DELIVERY PROCEDURES FOR CONSTRUCTION  
PROJECTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2264.001. DEFINITIONS. In this chapter:

(1) "Architect" means an individual registered as an architect under Chapter 1051, Occupations Code.

(2) "Engineer" means an individual licensed as an engineer under Chapter 1001, Occupations Code.

(3) "Facility" means an improvement to real property.

(4) "General conditions" in the context of a contract for the construction, rehabilitation, alteration, or repair of a facility means on-site management, administrative personnel, insurance, bonds, equipment, utilities, and incidental work, including minor field labor and materials.

Sec. 2264.002. APPLICABILITY OF CHAPTER TO GOVERNMENTAL ENTITIES AND QUASI-GOVERNMENTAL ENTITIES ENGAGED IN PUBLIC WORKS. This chapter applies to a governmental entity or quasi-governmental entity authorized by state law to make a public work contract, including:

(1) a state agency as defined by Section 2151.002, including the Texas Building and Procurement Commission;

(2) a local government, including:

(A) a county;

(B) a municipality;

(C) a special district or authority, including a school district, a hospital district, a river authority or any other type of water district, and a defense base development

authority established under Chapter 379B, Local Government Code;  
and

(D) any other political subdivision of this  
state; and

(3) a public junior college as defined by Section  
61.003, Education Code.

Sec. 2264.003. CONFLICT OF LAWS; REQUIREMENT TO FOLLOW  
PROCEDURES OF THIS CHAPTER. (a) Except as provided by this  
section, this chapter prevails over any other law relating to  
public works contracts.

(b) This chapter does not prevail over a conflicting  
provision in a law relating to contracting with a historically  
underutilized business.

(c) This chapter does not prevail over a conflicting  
provision in:

(1) a charter of a home-rule municipality; or

(2) a rule of a county, river authority or any other  
type of water district, or defense base development authority that  
requires the use of competitive bidding.

(d) The governing body of a municipality, county, river  
authority, or defense base development authority to which  
Subsection (c) applies may elect to have this chapter overrule the  
conflicting provision in the charter or rule.

Sec. 2264.004. EXEMPTION: TEXAS DEPARTMENT OF  
TRANSPORTATION. This chapter does not apply to a contract entered  
into by the Texas Department of Transportation.

[Sections 2264.005-2264.050 reserved for expansion]

SUBCHAPTER B. GENERAL POWERS AND DUTIES

Sec. 2264.051. RULES. A governmental entity may adopt rules as necessary to implement this chapter.

Sec. 2264.052. DELEGATION OF AUTHORITY. (a) The governing body of a governmental entity may delegate its authority under this chapter regarding an action authorized or required by this chapter to a designated representative, committee, or other person.

(b) The entity shall provide notice of the delegation and the limits of the delegation in the request for bids, proposals, or qualifications or in an addendum to the request.

(c) If the entity fails to provide notice under Subsection (b), a ranking, selection, or evaluation of bids, proposals, or qualifications for construction services other than by the entity's governing body in an open public meeting is advisory only.

Sec. 2264.053. RIGHT TO WORK. (a) This section applies to a governmental entity when the governmental entity is engaged in:

- (1) procuring goods or services under this chapter;
- (2) awarding a contract under this chapter; or
- (3) overseeing procurement or construction for a public work or public improvement under this chapter.

(b) In engaging in an activity to which this section applies, a governmental entity:

- (1) may not consider whether a person is a member of or has another relationship with any organization; and
- (2) shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or

1 other relationship status with respect to an organization.

2 [Sections 2264.054-2264.100 reserved for expansion]

3 SUBCHAPTER C. GENERAL CONTRACTING PROCEDURES

4 Sec. 2264.101. CRITERIA TO CONSIDER. In determining the  
5 award of a contract under this chapter, the governmental entity may  
6 consider:

7 (1) the purchase price;

8 (2) the reputation of the offeror and the offeror's  
9 goods or services;

10 (3) the quality of the offeror's goods or services;

11 (4) the extent to which the goods or services meet the  
12 governmental entity's needs;

13 (5) the offeror's past relationship with the  
14 governmental entity;

15 (6) the impact on the ability of the governmental  
16 entity to comply with rules relating to historically underutilized  
17 businesses;

18 (7) the total long-term cost to the governmental  
19 entity to acquire the offeror's goods or services; and

20 (8) any other relevant factor specifically listed in  
21 the request for bids, proposals, or qualifications.

22 Sec. 2264.102. USING METHOD OTHER THAN COMPETITIVE BIDDING  
23 FOR CONSTRUCTION SERVICES; EVALUATION OF PROPOSALS. (a) The  
24 governing body of a governmental entity that considers a  
25 construction contract using a method authorized by this chapter  
26 other than competitive bidding must, before advertising, determine  
27 which method provides the best value for the governmental entity.

1        (b) The governmental entity shall base its selection among  
2 offerors on applicable criteria listed in Section 2264.101. The  
3 governmental entity shall publish in the request for proposals or  
4 qualifications the criteria that will be used to evaluate the  
5 offerors.

6        (c) The governmental entity shall document the basis of its  
7 selection and shall make the evaluations public not later than the  
8 seventh day after the date the contract is awarded.

9        Sec. 2264.103. ARCHITECT OR ENGINEER SERVICES. (a) An  
10 architect or engineer required to be selected or designated under  
11 this chapter has full responsibility for complying with Chapter  
12 1001 or 1051, Occupations Code, as applicable.

13        (b) If the selected or designated architect or engineer is  
14 not a full-time employee of the governmental entity, the  
15 governmental entity shall select the architect or engineer on the  
16 basis of demonstrated competence and qualifications as provided by  
17 Section 2254.004.

18        Sec. 2264.104. RESPONSIBILITIES OF CONTRACTORS. In the  
19 context of a contract for the construction, rehabilitation,  
20 alteration, or repair of a facility under this chapter, a  
21 contractor is a sole proprietorship, partnership, corporation, or  
22 other legal entity that assumes the risk for constructing,  
23 rehabilitating, altering, or repairing all or part of the facility  
24 at the contracted price.

25        Sec. 2264.105. COMPETITIVE BIDDING. (a) Except as  
26 otherwise provided by this chapter or other law, a governmental  
27 entity may contract for the construction, alteration,

1 rehabilitation, or repair of a facility only after the entity  
2 advertises for bids for the contract in a manner prescribed by law,  
3 receives sealed competitive bids, and awards the contract to:

4 (1) the lowest responsible bidder; or

5 (2) the bidder offering the best value to the  
6 governmental entity according to the selection criteria  
7 established by the governmental entity in the request for bids.

8 (b) The governmental entity shall document the basis of its  
9 selection and shall make the evaluations public not later than the  
10 seventh day after the date the contract is awarded.

11 Sec. 2264.106. APPLICABILITY OF OTHER COMPETITIVE BIDDING  
12 LAW TO CERTAIN LOCAL GOVERNMENTAL ENTITIES. Except as otherwise  
13 specifically provided by this section, Subchapter B, Chapter 271,  
14 Local Government Code, does not apply to a competitive bidding  
15 process made under this chapter. Sections 271.026, 271.027(a), and  
16 271.0275, Local Government Code, apply to a competitive bidding  
17 process made under this chapter by a governmental entity as defined  
18 by Section 271.021, Local Government Code.

19 Sec. 2264.107. USE OF ARCHITECT OR ENGINEER. The  
20 governmental entity shall select or designate an architect or  
21 engineer in accordance with Chapter 1001 or 1051, Occupations Code,  
22 as applicable, to prepare the construction documents required for a  
23 project to be awarded by competitive bidding.

24 Sec. 2264.108. USE OF OTHER PROFESSIONAL SERVICES. (a) The  
25 governmental entity shall provide or contract for, independently of  
26 the contractor, the construction materials engineering, testing,  
27 and inspection services and the verification testing services



1 necessary for acceptance of the facility by the governmental entity  
2 under this subchapter.

3 (b) The governmental entity shall select the services for  
4 which it contracts under this section in accordance with Section  
5 2254.004.

6 [Sections 2264.109-2264.150 reserved for expansion]

7 SUBCHAPTER D. COMPETITIVE SEALED PROPOSAL METHOD

8 Sec. 2264.151. SELECTING CONTRACTOR FOR CONSTRUCTION  
9 SERVICES THROUGH COMPETITIVE SEALED PROPOSALS. A governmental  
10 entity may use the competitive sealed proposal method to select a  
11 contractor for the construction, rehabilitation, alteration, or  
12 repair of a facility. In selecting a contractor through  
13 competitive sealed proposals, a governmental entity shall follow  
14 the procedures provided by this subchapter.

15 Sec. 2264.152. USE OF ARCHITECT OR ENGINEER. The  
16 governmental entity shall select or designate an architect or  
17 engineer to prepare construction documents for the project.

18 Sec. 2264.153. USE OF OTHER PROFESSIONAL SERVICES. (a) The  
19 governmental entity shall provide or contract for, independently of  
20 the contractor, the construction materials engineering, testing,  
21 and inspection services and the verification testing services  
22 necessary for acceptance of the facility by the governmental  
23 entity.

24 (b) The governmental entity shall select the services for  
25 which it contracts under this section in accordance with Section  
26 2254.004.

27 Sec. 2264.154. PREPARATION OF REQUEST. (a) The

1 governmental entity shall prepare a request for competitive sealed  
2 proposals that includes construction documents, selection  
3 criteria, estimated budget, project scope, estimated project  
4 completion date, and other information that a contractor may  
5 require to respond to the request.

6 (b) The governmental entity shall state in the request for  
7 proposals the selection criteria that will be used in selecting the  
8 successful offeror.

9 Sec. 2264.155. EVALUATION OF OFFERORS. (a) The  
10 governmental entity shall receive, publicly open, and read aloud  
11 the names of the offerors.

12 (b) Not later than the 45th day after the date of opening the  
13 proposals, the governmental entity shall evaluate and rank each  
14 proposal submitted in relation to the published selection criteria.

15 Sec. 2264.156. SELECTION OF OFFEROR. (a) The governmental  
16 entity shall select the offeror that offers the best value for the  
17 governmental entity based on the published selection criteria and  
18 on its ranking evaluation. In determining best value for the  
19 governmental entity, the governmental entity is not restricted to  
20 considering price alone but may consider any other factor stated in  
21 the selection criteria.

22 (b) The governmental entity shall first attempt to  
23 negotiate a contract with the selected offeror. The governmental  
24 entity and its engineer or architect may discuss with the selected  
25 offeror options for a scope or time modification and any price  
26 change associated with the modification.

27 (c) If the governmental entity is unable to negotiate a

1 contract with the selected offeror, the governmental entity shall,  
2 formally and in writing, end negotiations with that offeror and  
3 proceed to the next offeror in the order of the selection ranking  
4 until a contract is reached or all proposals are rejected.

5 [Sections 2264.157-2264.200 reserved for expansion]

6 SUBCHAPTER E. CONSTRUCTION MANAGER-AGENT METHOD

7 Sec. 2264.201. CONTRACTS FOR FACILITIES: CONSTRUCTION  
8 MANAGER-AGENT SERVICES. (a) A construction manager-agent is a  
9 sole proprietorship, partnership, corporation, or other legal  
10 entity that provides consultation services to the governmental  
11 entity regarding construction, rehabilitation, alteration, or  
12 repair of a facility.

13 (b) A governmental entity may retain a construction  
14 manager-agent for assistance in the construction, rehabilitation,  
15 alteration, or repair of a facility only as provided by this  
16 subchapter.

17 Sec. 2264.202. CONTRACT PROVISIONS OF CONSTRUCTION  
18 MANAGER-AGENT. (a) The contract between the governmental entity  
19 and the construction manager-agent may require the construction  
20 manager-agent to provide:

21 (1) administrative personnel;

22 (2) equipment necessary to perform duties under this  
23 subchapter;

24 (3) on-site management; and

25 (4) other services specified in the contract.

26 (b) A construction manager-agent may not self-perform any  
27 aspect of the construction, rehabilitation, alteration, or repair

1 of the facility.

2 Sec. 2264.203. FIDUCIARY CAPACITY OF CONSTRUCTION  
3 MANAGER-AGENT. A construction manager-agent represents the  
4 governmental entity in a fiduciary capacity.

5 Sec. 2264.204. USE OF ARCHITECT OR ENGINEER. (a) On or  
6 before the selection of a construction manager-agent, the  
7 governmental entity shall select or designate an architect or  
8 engineer to prepare the construction documents for the project.

9 (b) The governmental entity's architect or engineer may not  
10 serve, alone or in combination with another person, as the  
11 construction manager-agent unless the architect or engineer is  
12 hired to serve as the construction manager-agent under a separate  
13 or concurrent selection process conducted in accordance with this  
14 subchapter. This subsection does not prohibit the governmental  
15 entity's architect or engineer from providing customary  
16 construction phase services under the architect's or engineer's  
17 original professional service agreement in accordance with  
18 applicable licensing laws.

19 (c) To the extent that the construction manager-agent's  
20 services are defined as part of the practice of engineering or  
21 architecture under Chapter 1001 or 1051, Occupations Code, those  
22 services must be conducted by a person licensed under the  
23 applicable chapter.

24 Sec. 2264.205. USE OF OTHER PROFESSIONAL SERVICES. (a) The  
25 governmental entity or the construction manager-agent shall  
26 procure, independently of the contractor, the construction  
27 materials engineering, testing, and inspection services and the

1 verification testing services necessary for acceptance of the  
2 facility by the governmental entity.

3 (b) The governmental entity or the construction  
4 manager-agent shall select the services for which it contracts  
5 under this section in accordance with Section 2254.004.

6 Sec. 2264.206. SELECTION OF CONSTRUCTION MANAGER-AGENT. A  
7 governmental entity shall select a construction manager-agent on  
8 the basis of demonstrated competence and qualifications in the same  
9 manner as provided for the selection of engineers or architects  
10 under Section 2254.004.

11 Sec. 2264.207. SELECTION OF CONTRACTORS. A governmental  
12 entity using the construction manager-agent method shall procure,  
13 in accordance with applicable law and in any manner authorized by  
14 this chapter, a general contractor, trade contractors, or  
15 subcontractors who will serve as the prime contractor for their  
16 specific portion of the work.

17 [Sections 2264.208-2264.250 reserved for expansion]

18 SUBCHAPTER F. CONSTRUCTION MANAGER-AT-RISK METHOD

19 Sec. 2264.251. CONTRACTS FOR FACILITIES: CONSTRUCTION  
20 MANAGER-AT-RISK. (a) A construction manager-at-risk is a sole  
21 proprietorship, partnership, corporation, or other legal entity  
22 that assumes the risk for construction, rehabilitation,  
23 alteration, or repair of a facility at the contracted price as a  
24 general contractor and provides consultation to the governmental  
25 entity regarding construction during and after the design of the  
26 facility.

27 (b) A governmental entity may use the construction

1 manager-at-risk method in selecting a general contractor for the  
2 construction, rehabilitation, alteration, or repair of a facility  
3 only as provided by this subchapter.

4 Sec. 2264.252. USE OF ARCHITECT OR ENGINEER. (a) On or  
5 before the selection of a construction manager-at-risk, the  
6 governmental entity shall select or designate an architect or  
7 engineer to prepare the construction documents for the project.

8 (b) The governmental entity's engineer or architect for a  
9 project may not serve, alone or in combination with another person,  
10 as the construction manager-at-risk unless the architect or  
11 engineer is hired to serve as the construction manager-at-risk  
12 under a separate or concurrent selection process conducted in  
13 accordance with this subchapter. This subsection does not prohibit  
14 the governmental entity's architect or engineer from providing  
15 customary construction phase services under the architect's or  
16 engineer's original professional service agreement in accordance  
17 with applicable licensing laws.

18 Sec. 2264.253. USE OF OTHER PROFESSIONAL SERVICES. (a) The  
19 governmental entity shall provide or contract for, independently of  
20 the construction manager-at-risk, the construction materials  
21 engineering, testing, and inspection services and the verification  
22 testing services necessary for acceptance of the facility by the  
23 governmental entity.

24 (b) The governmental entity shall select the services for  
25 which it contracts under this section in accordance with Section  
26 2254.004.

27 Sec. 2264.254. SELECTION PROCESS. (a) The governmental

1 entity shall select the construction manager-at-risk in a one-step  
2 or two-step process.

3 (b) The governmental entity shall prepare a single request  
4 for proposals, in the case of a one-step process, and an initial  
5 request for qualifications, in the case of a two-step process, that  
6 includes:

7 (1) general information on the project site, project  
8 scope, schedule, selection criteria, estimated budget, and the time  
9 and place for receipt of the proposals or qualifications;

10 (2) a statement as to whether the selection process is  
11 a one-step or two-step process; and

12 (3) other information that may assist the governmental  
13 entity in its selection of a construction manager-at-risk.

14 (c) The governmental entity shall state the selection  
15 criteria in the request for proposals or qualifications. The  
16 selection criteria may include the offeror's experience, past  
17 performance, safety record, proposed personnel and methodology,  
18 and other appropriate factors that demonstrate the capability of  
19 the construction manager-at-risk.

20 (d) If a one-step process is used, the governmental entity  
21 may request, as part of the offeror's proposal, proposed fees and  
22 prices for fulfilling the general conditions.

23 (e) If a two-step process is used, the governmental entity  
24 may not request fees or prices in step one. In step two, the  
25 governmental entity may request that five or fewer offerors,  
26 selected solely on the basis of qualifications, provide additional  
27 information, including the construction manager-at-risk's proposed

1 fee and price for fulfilling the general conditions.

2 (f) At each step, the governmental entity shall receive,  
3 publicly open, and read aloud the names of the offerors. At the  
4 appropriate step, the governmental entity shall also read aloud the  
5 fees and prices, if any, stated in each proposal as the proposal is  
6 opened.

7 (g) Not later than the 45th day after the date of opening the  
8 final proposals, the governmental entity shall evaluate and rank  
9 each proposal submitted in relation to the criteria set forth in the  
10 request for proposals.

11 Sec. 2264.255. SELECTION OF OFFEROR. (a) The governmental  
12 entity shall select the offeror that submits the proposal that  
13 offers the best value for the governmental entity based on the  
14 published selection criteria and on its ranking evaluation.

15 (b) The governmental entity shall first attempt to  
16 negotiate a contract with the selected offeror.

17 (c) If the governmental entity is unable to negotiate a  
18 satisfactory contract with the selected offeror, the governmental  
19 entity shall, formally and in writing, end negotiations with that  
20 offeror and proceed to negotiate with the next offeror in the order  
21 of the selection ranking until a contract is reached or  
22 negotiations with all ranked offerors end.

23 Sec. 2264.256. PERFORMANCE OF WORK. (a) A construction  
24 manager-at-risk shall publicly advertise for bids or proposals and  
25 receive bids or proposals from trade contractors or subcontractors  
26 for the performance of all major elements of the work other than the  
27 minor work that may be included in the general conditions.



1        (b) A construction manager-at-risk may seek to perform  
2 portions of the work itself if:

3            (1) the construction manager-at-risk submits its bid  
4 or proposal for those portions of the work in the same manner as all  
5 other trade contractors or subcontractors; and

6            (2) the governmental entity determines that the  
7 construction manager-at-risk's bid or proposal provides the best  
8 value for the governmental entity.

9        Sec. 2264.257. REVIEW OF BIDS OR PROPOSALS. (a) The  
10 construction manager-at-risk and the governmental entity shall  
11 review all trade contractor or subcontractor bids or proposals in a  
12 manner that does not disclose the contents of the bid or proposal  
13 during the selection process to a person not employed by the  
14 construction manager-at-risk, engineer, architect, or governmental  
15 entity. All bids or proposals shall be made public after the later  
16 of the award of the contract or the seventh day after the date of  
17 final selection of bids or proposals.

18        (b) If the construction manager-at-risk reviews, evaluates,  
19 and recommends to the governmental entity a bid or proposal from a  
20 trade contractor or subcontractor but the governmental entity  
21 requires another bid or proposal to be accepted, the governmental  
22 entity shall compensate the construction manager-at-risk by a  
23 change in price, time, or guaranteed maximum cost for any  
24 additional cost and risk that the construction manager-at-risk  
25 incurs because of the governmental entity's requirement that  
26 another bid or proposal be accepted.

27        Sec. 2264.258. DEFAULT; PERFORMANCE OF WORK. If a selected

1 trade contractor or subcontractor defaults in the performance of  
2 its work or fails to execute a subcontract after being selected in  
3 accordance with this subchapter, the construction manager-at-risk  
4 may itself fulfill the contract requirements or select a  
5 replacement trade contractor or subcontractor to fulfill the  
6 contract requirements.

7 Sec. 2264.259. PERFORMANCE OR PAYMENT BOND. (a) If a fixed  
8 contract amount or guaranteed maximum price has not been determined  
9 at the time the contract is awarded, the penal sums of the  
10 performance and payment bonds delivered to the governmental entity  
11 must each be in an amount equal to the project budget, as specified  
12 in the request for proposals or qualifications.

13 (b) The construction manager-at-risk shall deliver the  
14 bonds not later than the 10th day after the date the construction  
15 manager-at-risk executes the contract unless the construction  
16 manager-at-risk furnishes a bid bond or other financial security  
17 acceptable to the governmental entity to ensure that the  
18 construction manager will furnish the required performance and  
19 payment bonds when a guaranteed maximum price is established.

20 [Sections 2264.260-2264.300 reserved for expansion]

21 SUBCHAPTER G. DESIGN-BUILD METHOD

22 Sec. 2264.301. APPLICABILITY OF SUBCHAPTER TO BUILDINGS;  
23 EXCEPTIONS. This subchapter applies only to a facility that is a  
24 building or an associated structure. This subchapter does not  
25 apply to:

26 (1) a highway, road, street, bridge, utility, water  
27 supply project, water plant, wastewater plant, water and wastewater

1 distribution or conveyance facility, wharf, dock, airport runway or  
2 taxiway, drainage project, or related type of project associated  
3 with civil engineering construction; or

4 (2) a building or structure that is incidental to a  
5 project that is primarily a civil engineering construction project.

6 Sec. 2264.302. CONTRACTS FOR BUILDINGS: DESIGN-BUILD. A  
7 governmental entity may use the design-build method for the  
8 construction, rehabilitation, alteration, or repair of a building  
9 or associated structure only as provided by this subchapter. In  
10 using that method, the governmental entity shall enter into a  
11 single contract with a design-build firm for the design and  
12 construction of the building or associated structure.

13 Sec. 2264.303. DESIGN-BUILD FIRMS. A design-build firm  
14 under this subchapter must be a partnership, corporation, or other  
15 legal entity or team that includes an engineer or architect and a  
16 construction contractor.

17 Sec. 2264.304. USE OF ARCHITECT OR ENGINEER. The  
18 governmental entity shall select or designate an architect or  
19 engineer independent of the design-build firm to act as the  
20 governmental entity's representative for the duration of the work  
21 on the facility.

22 Sec. 2264.305. USE OF OTHER PROFESSIONAL SERVICES. (a) The  
23 governmental entity shall provide or contract for, independently of  
24 the design-build firm, the construction materials engineering,  
25 testing, and inspection services and the verification testing  
26 services necessary for acceptance of the facility by the  
27 governmental entity.

1        (b) The governmental entity shall select the services for  
2 which it contracts under this section in accordance with Section  
3 2254.004.

4        Sec. 2264.306. PREPARATION OF REQUEST. (a) The  
5 governmental entity shall prepare a request for qualifications that  
6 includes general information on the project site, project scope,  
7 budget, special systems, selection criteria, and other information  
8 that may assist potential design-build firms in submitting  
9 proposals for the project.

10       (b) The governmental entity shall also prepare the design  
11 criteria package that includes more detailed information on the  
12 project. If the preparation of the design criteria package  
13 requires engineering or architectural services that constitute the  
14 practice of engineering within the meaning of Chapter 1001,  
15 Occupations Code, or the practice of architecture within the  
16 meaning of Chapter 1051, Occupations Code, those services shall be  
17 provided in accordance with the applicable law.

18       (c) The design criteria package must include a set of  
19 documents that provides sufficient information, including criteria  
20 for selection, to permit a design-build firm to prepare a response  
21 to the governmental entity's request for qualifications and to  
22 provide any additional information requested. The design criteria  
23 package must specify criteria the governmental entity considers  
24 necessary to describe the project and may include, as appropriate,  
25 the legal description of the site, survey information concerning  
26 the site, interior space requirements, special material  
27 requirements, material quality standards, conceptual criteria for

1 the project, special equipment requirements, cost or budget  
2 estimates, time schedules, quality assurance and quality control  
3 requirements, site development requirements, applicable codes and  
4 ordinances, provisions for utilities, parking requirements, and  
5 any other requirement.

6 (d) The governmental entity may not require offerors to  
7 submit detailed engineering or architectural designs as part of a  
8 proposal or a response to a request for qualifications.

9 Sec. 2264.307. EVALUATION OF DESIGN-BUILD FIRMS. (a) For  
10 each design-build firm that responded to the request for  
11 qualifications, the governmental entity shall evaluate the firm's  
12 experience, technical competence, and capability to perform, the  
13 past performance of the firm and members of the firm, and other  
14 appropriate factors submitted by the firm in response to the  
15 request for qualifications, except that cost-related or  
16 price-related evaluation factors are not permitted.

17 (b) Each firm must certify to the governmental entity that  
18 each engineer or architect that is a member of the firm was selected  
19 based on demonstrated competence and qualifications, in the manner  
20 provided by Section 2254.004.

21 (c) The governmental entity shall qualify a maximum of five  
22 responders to submit proposals that contain additional information  
23 and, if the governmental entity chooses, to interview for final  
24 selection.

25 (d) The governmental entity shall evaluate the additional  
26 information submitted by the offerors on the basis of the selection  
27 criteria stated in the request for qualifications and the results

1 of any interview.

2 (e) The governmental entity may request additional  
3 information regarding demonstrated competence and qualifications,  
4 considerations of the safety and long-term durability of the  
5 project, the feasibility of implementing the project as proposed,  
6 the ability of the offeror to meet schedules, or costing  
7 methodology. As used in this subsection, "costing methodology"  
8 means an offeror's policies on subcontractor markup, definition of  
9 general conditions, range of cost for general conditions, policies  
10 on retainage, policies on contingencies, discount for prompt  
11 payment, and expected staffing for administrative duties. The term  
12 does not include a guaranteed maximum price or bid for overall  
13 design or construction.

14 (f) The governmental entity shall rank each proposal  
15 submitted on the basis of the criteria set forth in the request for  
16 qualifications.

17 Sec. 2264.308. SELECTION OF DESIGN-BUILD FIRM. (a) The  
18 governmental entity shall select the design-build firm that submits  
19 the proposal offering the best value for the governmental entity on  
20 the basis of the published selection criteria and on its ranking  
21 evaluations.

22 (b) The governmental entity shall first attempt to  
23 negotiate a contract with the selected firm.

24 (c) If the governmental entity is unable to negotiate a  
25 satisfactory contract with the selected firm, the governmental  
26 entity shall, formally and in writing, end all negotiations with  
27 that firm and proceed to negotiate with the next firm in the order

1 of the selection ranking until a contract is reached or  
2 negotiations with all ranked firms end.

3 Sec. 2264.309. COMPLETION OF DESIGN AFTER SELECTION. After  
4 selection of the design-build firm, that firm's architects or  
5 engineers shall complete the design and submit all design elements  
6 for review and determination of scope compliance to the  
7 governmental entity or governmental entity's architect or engineer  
8 before or concurrently with construction.

9 Sec. 2264.310. FINAL CONSTRUCTION DOCUMENTS. The  
10 design-build firm shall supply a signed and sealed set of  
11 construction documents for the project to the governmental entity  
12 at the conclusion of construction.

13 Sec. 2264.311. PERFORMANCE OR PAYMENT BOND. (a) A payment  
14 or performance bond is not required and may not provide coverage for  
15 the portion of the design-build contract with the design-build firm  
16 under this subchapter that includes design services only.

17 (b) If a fixed contract amount or guaranteed maximum price  
18 has not been determined at the time the design-build contract is  
19 awarded, the penal sums of the performance and payment bonds  
20 delivered to the governmental entity must each be in an amount equal  
21 to the project budget, as specified in the design criteria package.

22 (c) The design-build firm shall deliver the bonds not later  
23 than the 10th day after the date the design-build firm executes the  
24 contract unless the design-build firm furnishes a bid bond or other  
25 financial security acceptable to the governmental entity to ensure  
26 that the design-build firm will furnish the required performance  
27 and payment bonds when a guaranteed maximum price is established.

1        [Sections 2264.312-2264.350 reserved for expansion]

2                SUBCHAPTER H. JOB ORDER CONTRACTS METHOD

3                Sec. 2264.351. JOB ORDER CONTRACTS FOR FACILITIES  
4 CONSTRUCTION OR REPAIR. A governmental entity may award job order  
5 contracts for the minor construction, repair, rehabilitation, or  
6 alteration of a facility if:

7                (1) the work is of a recurring nature but the delivery  
8 times are indefinite; and

9                (2) indefinite quantities and orders are awarded  
10 substantially on the basis of predescribed and prepriced tasks.

11               Sec. 2264.352. CONTRACTUAL UNIT PRICES. The governmental  
12 entity may establish contractual unit prices for a job order  
13 contract by:

14               (1) specifying one or more published construction unit  
15 price books and the applicable divisions or line items; or

16               (2) providing a list of prepriced work items and  
17 requiring the offerors to propose one or more coefficients or  
18 multipliers to be applied to the price book or prepriced work items  
19 as the price proposal.

20               Sec. 2264.353. COMPETITIVE SEALED PROPOSAL METHOD. (a) A  
21 governmental entity may use the competitive sealed proposal method  
22 under Subchapter D for job order contracts or may award a contract  
23 through the use of an interlocal contract.

24               (b) The governmental entity shall advertise for, receive,  
25 and publicly open sealed proposals for job order contracts.

26               (c) The governmental entity may require offerors to submit  
27 information in addition to rates, including experience, past



1 performance, and proposed personnel and methodology.

2 (d) Unless required by Section 2264.355, a request for a  
3 competitive sealed proposal under this subchapter is not required  
4 to include the information required by Section 2264.154(a).

5 Sec. 2264.354. AWARDING OF JOB CONTRACTS. The governmental  
6 entity may award job order contracts to one or more job order  
7 contractors in connection with each solicitation of proposals.

8 Sec. 2264.355. USE OF ARCHITECT OR ENGINEER. If a job order  
9 contract or an order issued under the contract requires  
10 architectural or engineering services that constitute the practice  
11 of engineering within the meaning of Chapter 1001, Occupations  
12 Code, or the practice of architecture within the meaning of Chapter  
13 1051, Occupations Code, those services shall be provided in  
14 accordance with applicable law.

15 Sec. 2264.356. JOB ORDER CONTRACT TERM. (a) A job order  
16 contract is for the base term and with any renewal options that the  
17 governmental entity sets forth in the request for proposals.

18 (b) If the governmental entity fails to advertise the base  
19 term, the base term may not exceed two years and is not renewable  
20 without further advertisement and solicitation of proposals.

21 Sec. 2264.357. JOB ORDERS. (a) An order for a job or  
22 project under a job order contract must be signed by the  
23 governmental entity's representative and the contractor.

24 (b) The order may be:

25 (1) a fixed price, lump-sum contract based  
26 substantially on contractual unit pricing applied to estimated  
27 quantities; or

(2) a unit price order based on the quantities and line items delivered.

Sec. 2264.358. PAYMENT AND PERFORMANCE BONDS. The contractor shall provide payment and performance bonds, if required by law, based on the amount or estimated amount of any order.

[Sections 2264.359-2264.400 reserved for expansion]

SUBCHAPTER I. NOTICE REQUIREMENTS FOR LOCAL GOVERNMENTS

Sec. 2264.401. NOTICE REQUIREMENTS FOR CERTAIN LOCAL GOVERNMENTS. (a) For a contract entered into by a defense base development authority, municipality, or river authority under a method provided by this chapter, the municipality or authority shall publish notice of the time and place the bids or proposals or the responses to a request for qualifications will be received and opened.

(b) The notice must be published in a newspaper of general circulation in the county in which the defense base development authority's or municipality's central administrative office is located or in the county in which the greatest amount of the river authority's territory is located. If there is not a newspaper of general circulation in that county, the notice shall be published in a newspaper of general circulation in the county nearest the county seat of the county in which the defense base development authority's or municipality's central administrative office is located or the county seat of the county in which the greatest amount of the river authority's territory is located.

(c) The notice must be published once each week for at least two weeks before the deadline for receiving bids, proposals, or

1 responses.

2 (d) In a two-step procurement process, the time and place  
3 the second step bids, proposals, or responses will be received are  
4 not required to be published separately.

5 Sec. 2264.402. NOTICE REQUIREMENTS FOR COUNTIES. (a) For a  
6 contract entered into by a county under a method provided by this  
7 chapter, the county shall publish notice of the time and place the  
8 bids or proposals or request for qualifications will be received  
9 and opened.

10 (b) The notice must be published in a newspaper of general  
11 circulation in the county once each week for at least two weeks  
12 before the deadline for receiving bids, proposals, or responses.  
13 If there is not a newspaper of general circulation in the county,  
14 the notice shall be:

15 (1) posted at the courthouse door of the county; and

16 (2) published in a newspaper of general circulation in  
17 the county nearest the county seat of the county publishing the  
18 notice.

19 [Sections 2264.403-2264.425 reserved for expansion]

20 SUBCHAPTER J. ENFORCEMENT

21 Sec. 2264.426. VOID CONTRACT. A contract entered into in  
22 violation of this chapter is void as against public policy.

23 Sec. 2264.427. DECLARATORY OR INJUNCTIVE RELIEF. (a) This  
24 chapter may be enforced through an action for declaratory or  
25 injunctive relief filed not later than the 30th day after the date  
26 on which the contract is awarded.

27 (b) The injunctive relief provided by this section does not

1 apply to enforcement of a contract entered into by a state agency  
2 that has a formal administrative appeals process regarding the  
3 award of the contract.

4 SECTION 4. Subchapter D, Chapter 11, Education Code, is  
5 amended by adding Section 11.168 to read as follows:

6 Sec. 11.168. USE OF DISTRICT RESOURCES PROHIBITED FOR  
7 CERTAIN PURPOSES. The board of trustees of a school district may  
8 not enter into an agreement authorizing the use of school district  
9 employees, property, or resources for the provision of materials or  
10 labor for the design, construction, or renovation of improvements  
11 to real property not owned or leased by the district.

12 SECTION 5. Sections 44.031(a) and (f), Education Code, are  
13 amended to read as follows:

14 (a) Except as provided by this subchapter, all school  
15 district contracts, except contracts for the purchase of produce or  
16 vehicle fuel or a contract made under Chapter 2264, Government  
17 Code, valued at \$25,000 or more in the aggregate for each 12-month  
18 period shall be made by the method, of the following methods, that  
19 provides the best value for the district:

20 (1) competitive bidding;

21 (2) competitive sealed proposals;

22 (3) a request for proposals, for services other than  
23 construction services;

24 (4) a catalogue purchase as provided by Subchapter B,  
25 Chapter 2157, Government Code;

26 (5) an interlocal contract;

27 (6) a method provided by Chapter 2264, Government

1 Code;

2           (7) ~~[a design/build contract,~~  
3           ~~[(7) a contract to construct, rehabilitate, alter, or~~  
4 ~~repair facilities that involves using a construction manager,~~  
5           ~~[(8) a job order contract for the minor construction,~~  
6 ~~repair, rehabilitation, or alteration of a facility,~~  
7           [(9)] the reverse auction procedure as defined by  
8 Section 2155.062(d), Government Code; or

9           (8) ~~[(10)]~~ the formation of a political subdivision  
10 corporation under Section 304.001, Local Government Code.

11           (f) This section does not apply to a contract for  
12 professional services rendered, including services of an  
13 architect, attorney, engineer, or fiscal agent. A school district  
14 may, at its option, contract for professional services rendered by  
15 a financial consultant or a technology consultant in the manner  
16 provided by Section 2254.003, Government Code, in lieu of the  
17 methods provided by this section.

18           SECTION 6. Section 44.901, Education Code, is amended by  
19 adding Subsection (j) to read as follows:

20           (j) Chapter 2264, Government Code, does not apply to this  
21 section.

22           SECTION 7. Section 51.927, Education Code, is amended by  
23 adding Subsection (k) to read as follows:

24           (k) Chapter 2264, Government Code, does not apply to this  
25 section.

26           SECTION 8. Section 2166.406, Government Code, is amended by  
27 adding Subsection (k) to read as follows:

1        (k) Chapter 2264 does not apply to this section.

2        SECTION 9. Subchapter A, Chapter 2254, Government Code, is  
3 amended by adding Section 2254.007 to read as follows:

4        Sec. 2254.007. DECLARATORY OR INJUNCTIVE RELIEF. (a) This  
5 subchapter may be enforced through an action for declaratory or  
6 injunctive relief filed not later than the 30th day after the date  
7 on which the contract is awarded.

8        (b) The injunctive relief provided by this section does not  
9 apply to enforcement of a contract entered into by a state agency  
10 that has a formal administrative appeals process regarding the  
11 award of the contract.

12        SECTION 10. Section 252.021(a), Local Government Code, is  
13 amended to read as follows:

14        (a) Before a municipality may enter into a contract that  
15 requires an expenditure of more than \$25,000 from one or more  
16 municipal funds, the municipality must:

17                (1) comply with the procedure prescribed by this  
18 subchapter and Subchapter C for competitive sealed bidding or  
19 competitive sealed proposals;

20                (2) use the reverse auction procedure, as defined by  
21 Section 2155.062(d), Government Code, for purchasing; or

22                (3) comply with a method described by Chapter 2264,  
23 Government Code [~~Subchapter H, Chapter 271~~].

24        SECTION 11. Chapter 302, Local Government Code, is amended  
25 by adding Section 302.006 to read as follows:

26        Sec. 302.006. EXEMPTION FROM OTHER CONTRACTING LAW.  
27 Chapter 2264, Government Code, does not apply to this chapter.

SECTION 12. Subchapter E, Chapter 335, Local Government Code, is amended by adding Section 335.077 to read as follows:

Sec. 335.077. EXEMPTION FROM CONSTRUCTION CONTRACTING LAW.  
Chapter 2264, Government Code, does not apply to this chapter.

SECTION 13. Section 22.074, Transportation Code, is amended by adding Subsection (f) to read as follows:

(f) Chapter 2264, Government Code, does not apply to a joint board whose constituent agencies are populous home-rule municipalities.

SECTION 14. Section 370.305, Transportation Code, is amended by adding Subsection (e) to read as follows:

(e) Chapter 2264, Government Code, does not apply to agreements entered into pursuant to this section.

SECTION 15. Section 431.101(g), Transportation Code, is amended to read as follows:

(g) A local government corporation [created by a navigation district] must comply with all state law related to the design and construction of projects, including the procurement of design and construction services, that applies to the local government [navigation district] that created the corporation.

SECTION 16. Chapter 451, Transportation Code, is amended by adding Section 451.813 to read as follows:

Sec. 451.813. EXEMPTION FROM OTHER CONTRACTING LAW.  
Chapter 2264, Government Code, does not apply to this subchapter, as added by H.B. No. 2300, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 17. Subchapter C, Chapter 452, Transportation Code,

1 is amended by adding Section 452.1095 to read as follows:

2       Sec. 452.1095. EXEMPTION FROM OTHER CONTRACTING LAW FOR  
3 CERTAIN AUTHORITIES. Chapter 2264, Government Code, does not apply  
4 to an authority consisting of one subregion governed by a  
5 subregional board created under Subchapter O.

6       SECTION 18. Section 60.452, Water Code, as added by Chapter  
7 307, Acts of the 78th Legislature, Regular Session, 2003, is  
8 amended by adding Subsection (c) to read as follows:

9       (c) Chapter 2264, Government Code, does not apply to this  
10 subchapter.

11       SECTION 19. The following are repealed:

12               (1) Sections 44.0312, 44.0315, 44.035-44.041, and  
13 44.043, Education Code;

14               (2) Subchapter T, Chapter 51, Education Code;

15               (3) Sections 2166.2511, 2166.2526, 2166.2531,  
16 2166.2532, 2166.2533, and 2166.2535, Government Code;

17               (4) Subchapter H, Chapter 271, Local Government Code;  
18 and

19               (5) Section 431.101(e), Transportation Code.

20       SECTION 20. (a) The changes in law made by this Act apply  
21 only to a contract or construction project for which a governmental  
22 entity first advertises or otherwise requests bids, proposals,  
23 offers, or qualifications, or makes a similar solicitation, on or  
24 after the effective date of this Act.

25       (b) A contract or construction project for which a  
26 governmental entity first advertises or otherwise requests bids,  
27 proposals, offers, or qualifications, or makes a similar



H.B. No. 2525

1 solicitation, before the effective date of this Act is governed by  
2 the law as it existed immediately before the effective date of this  
3 Act, and that law is continued in effect for that purpose.

4 SECTION 21. This Act takes effect September 1, 2005.

**House Bill 2525**  
Conference Committee Report  
Section-by-Section Analysis

**HOUSE VERSION**

SECTION 1. Adds Section 2253.021(h), Government Code, to clarify that a reverse auction procedure may not be used to obtain goods or services in a public work contract for which a bond is required under Section 2253.021, Government Code.

SECTION 2. Amends Section 2166.2525, Government Code, to clarify that the commission can use any method of contracting provided under Chapter 2264.

SECTION 3. Adds Chapter 2264, Government Code, to consolidate alternate project delivery processes into a single chapter of the Government Code and expands the use of some delivery methods to horizontal construction as well as vertical construction.

**SENATE VERSION**

SECTION 1. Same as House version, except that the word "goods" is deleted and clarifies that it must be "related to" a public work contract.

SECTION 2. Same as House version.

SECTION 3. Same as House version, except as follows:  
Adds Sec. 2264.108 to clarify how governmental entities will procure inspection and testing services when using competitive bidding.

Clarifies that inspection services are related to construction materials in Sections 2264.153, 2264.205, 2264.253, and 2264.305.

Clarifies that a construction manager-agent may not self-perform "any aspect" of job.

Does not require a governmental entity to advertise for construction manager-agent services.

Clarifies that work items must be "prepriced" in job order contracts.

Adds a new 2264.353(a) and (d) to clarify that a

**CONFERENCE**

SECTION 1. Same as Senate version.

SECTION 2. Same as House version.

SECTION 3. Same as Senate version.

governmental entity may use the competitive sealed proposal method for job order contracts or may award a contract through an interlocal contract and to clarify that not all requirements for competitive sealed proposals apply to job order contracts.

Adds Section 2264.427(b) to clarify that injunctive relief is not applicable to a state agency that has a formal administrative appeals process for contracts.

SECTION 1. Adds Section 11.168, Education Code, to clarify the use of interlocal agreements for construction services.

SECTION 4. Same as House version

SECTION 5. Same as House version.

SECTION 6. Same as House version.

SECTION 7. Same as House version.

SECTION 8. Same as House version, except clarifies that it is not applicable to a state agency that has a formal administrative appeals process for contracts.

SECTION 4. Same as Senate version.

SECTION 5. Same as House version.

SECTION 6. Same as House version.

SECTION 7. Same as House version.

SECTION 8. Same as House version.

SECTION 9. Same as Senate version.

No equivalent provision.

SECTION 4. Amends Sections 44.031(a) and (f), Education Code, to clarify that design and construction services may be procured by any method authorized by Chapter 2264, Government Code, and that the section does not apply to engineering services.

SECTION 5. Adds Section 44.901(j), Education Code, to exempt energy performance contracts from Chapter 2264, Government Code.

SECTION 6. Adds Section 51.927(k), Education Code, to exempt energy performance contracts from Chapter 2264, Government Code.

SECTION 7. Adds Section 2166.406(k), Government Code, to exempt energy performance contracts from Chapter 2264, Government Code.

SECTION 8. Adds injunctive and declaratory relief to Chapter 2254, Government Code.

SECTION 9. Amends Section 252.021(a), Local Government Code, to make reference to the new Chapter 2264, Government Code.

SECTION 10. Adds Section 302.006, Local Government Code, to exempt energy performance contracts from Chapter 2264, Government Code.

No equivalent provision.

SECTION 11. Adds Section 22.074(f), Transportation Code, to exempt DFW Airport contracts from Chapter 2264, Government Code.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 12. Adds Section 60.452(c), Water Code, to exempt Navigation District contracts from Chapter 2264, Government Code.

SECTION 9. Same as House version.

SECTION 10. Same as House version.

SECTION 11. Adds Section 335.077, Local Government Code, to exempt sports and community venue districts from Chapter 2264, Government Code.

SECTION 12. Same as House version.

SECTION 13. Adds Section 370.305(e), Transportation Code, to exempt Regional Mobility Authority contracts from Chapter 2264, Government Code.

SECTION 14. Amends Section 431.101(g), Transportation Code, to replace "navigation district" with "local government."

SECTION 15. Adds Section 451.813, Transportation Code, to clarify that Chapter 2264, Government Code does not apply to H.B. 2300.

SECTION 16. Adds Section 452.1095, Transportation Code, to exempt certain regional transportation authority contracts from Chapter 2264, Government Code.

SECTION 16. Same as House version.

SECTION 10. Same as House version.

SECTION 11. Same as House version.

SECTION 12. Same as Senate version.

SECTION 13. Same as House version.

SECTION 14. Same as Senate version.

SECTION 15. Same as Senate version.

SECTION 16. Same as Senate version.

SECTION 17. Same as Senate version.

SECTION 18. Same as House version.

SECTION 13. Repeals Sections 44.0312, 44.0315, 44.035-44.041, and 44.043, Education Code; Subchapter T, Chapter 51, Education Code; Sections 2166.2511, 2166.2526, 2166.2531, 2166.2532, 2166.2533, and 2166.2535, Government Code; and Subchapter H, Chapter 271, Local Government Code.

SECTION 14. Transition language.

SECTION 15. Effective date.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 17. Same as House version except also repeals 431.101, Transportation Code.

SECTION 18. Same as House version.

SECTION 16. Same as House version.

SECTION \_\_. Amends Section 44.0311(a), Education Code, to clarify that it does not apply to junior college districts.

SECTION \_\_. Adds Section 130.0103, Education Code, to establish policy and report for certain junior college districts regarding historically underutilized businesses.

SECTION \_\_. Adds Subchapters K and L, Chapter 130, Education Code, to create a comprehensive purchasing statute for goods and services other than those related to construction contracts, to direct the sale of personal property by the district, and the award of miscellaneous contracts for certain services.

SECTION \_\_. Amends Section 271.023, Local Government Code, to provide that to the extent that any conflict arises between Subchapter B, Chapter 44, Education Code, and the provisions of Subchapter K, Chapter 130, Education Code, that Subchapter B, Chapter 44, Education Code, prevails.

SECTION \_\_. Repeals Sections 44.0311(b), 130.010, and 130.0101, Education Code.

SECTION 19. Same as Senate version.

SECTION 20. Same as House version.

SECTION 21. Same as House version.

Same as House version

Same as House version.

Same as House version.

Same as House version.

Same as House version.